

IN THE UNITED STATES BANKRUPTCY
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:
Preferred Ready-Mix, LLC
Debtor

§
§
§
§ CASE NO. 21-33369
§
§ Chapter 11
§
§

**MOTION CONFIRMING THE ABSENCE OF STAY AND/OR ALTERNATIVELY
MOTION FOR RELIEF FROM STAY
REGARDING CO-DEBTOR ROBERT FORAN**

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN 7 DAYS PRIOR TO THE HEARING AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN SEVEN DAYS PRIOR TO THE HEARING, UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANTOR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THE HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON February 23, 2022 AT 9:30 a.m. IN COURTROOM 401, UNITED STATES COURT HOUSE, 515 RUSK AVENUE, HOUSTON, TEXAS 77002.

1. This Motion requests an order from the Bankruptcy Court authorizing creditor and Movant, CAMERON ROESELE (Movant) that would allow and/or give authority to continue collections against Robert Foran.
2. On December 12, 2019, Judge Carter, in the 400th Judicial District of Fort Bend County, Texas, in Cause No. 19-DCV-267154 granted judgment against Robert Foran for \$164,645.68 and attorney's fees of \$8,475.00 with 5% interest on all amounts from the date of judgment until paid. (the Original Lawsuit). Additionally, the judgment required Foran to return a vehicle: VIN#1M1AN09YOANOO6108 and 2004 Vantage End Dump Trailer

VIN#4E7AA39224ATAO309, within 21 days. (the Fort Bend Judgment) Foran has never paid or returned the vehicle. A true and correct copy of the Fort Bend Judgment is attached hereto as Exhibit A.

3. **Movant contends that the stay does not apply and requests an order confirming that the automatic stay does not apply for the following reasons:**
 - a. **There is no Co-Debtor Stay in Chapter 11**
4. The Co-Debtor Stay is provided by 11 U.S.C. §1301 and is applicable when the Debtor files a Chapter 13 bankruptcy. It does not exist in Chapter 11 Bankruptcy without seeking additional relief.
5. Movant certifies that prior to filing this Motion, attempts were made to settle this matter, but as of the date of filing, the Debtors counsel has been unable to get a response from their client. Further, Counsel for the Movant has attempted to settle this matter with any and all other counsel for the Debtor and no response has been received.

Date: January 28, 2022

Respectfully submitted,

THE LAW OFFICE OF DEREK
LOETZERICH, PLLC



By: /s/ Derek Loetzerich

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ATTORNEY FOR THE MOVANT
CAMERON ROSELE

CERTIFICATE OF CONFERENCE

This will certify that a letter by e-mail and mail delineating the Movant's Contentions and attempting conference were sent on January 25, 2022. Further, counsel for movant has attempted to speak with counsel for the Debtor, but no response has been received.


/s/ Derek Loetzerich

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was served in accordance with the Rules of Civil Procedure on Friday, January 28, 2022.


/s/ Derek Loetzerich